

REMARKS

The Notice of Allowance, mailed June 4, 2004, for the above-captioned patent indicated a period of 70 days adjustment for PTO delays under 37 C.F.R. 1.702(a)(1). However, the patent issued with an adjustment of zero days.

A review of PAIR of the patent term adjustment history (copy enclosed) indicates Applicant delays totaling 84 days were counted against the PTO delays of 70 days, thus canceling the PTO delays. The patent term adjustment history indicates that a miscellaneous incoming letter on June 30, 2004, is counted in delays against the PTO delays. This miscellaneous incoming letter is comments on statement of reasons for allowance, which is not considered "to be a failure to engage in reasonable efforts to conclude processing or examination of an application." MPEP §2372. Therefore, the miscellaneous incoming letter should not be counted as a delay against the PTO delays.

The patent term adjustment history further shows a total of 84 days counted against the PTO delays of 70 days as "Workflow - Drawings Finished." Applicant respectfully believes that the 84 days should not be counted against the PTO delays of 70 days.

In the Notice of Allowability, Applicant received a Notice of Draftsperson's Patent Drawing Review indicating that the drawing sheets 1-11 should be corrected to delete page numbers in the bottom margins. Pursuant to the Draftsperson's objection, Applicant submitted replacement drawing sheets. However, as indicated in Applicant's submission of the replacement drawing sheets, the drawings originally filed in this application did not include any page numbers in the bottom margin of the drawing sheets. The application was electronically filed, and the TIF drawings included in the submission do not have page numbers in the bottom margins. The numbers were later added by the PTO.

A review of the Image File Wrapper as provided by PAIR shows page numbers in the bottom margin as well as other markings in the left margin of all documents electronically filed through ePave (copies enclosed). Since the numbers are in a different font, are outside the margins, and are consecutive throughout all filing papers, clearly indicates insertion thereof by the Office. The specification, claims, abstract, and

drawings enclosed show consecutive page numbers in the bottom margin. Such page numbering cannot have been inserted by Applicant since page numbers cannot be inserted in an XML document. Also, Applicant could not know that the first page of drawings would start on page 35 of 44. A review of the drawings also shows a reduction in size of the originally filed TIF drawings such that the drawings as submitted by Applicant would fit within the page boundaries above the page numbers in the bottom margin and the markings in the left margin. No page numbering exists in the originally filed drawings.

Further, the enclosed application data sheet, transmittal form, fee transmittal and electronic filing system data document also contain the marking in the left margin and page numbers in the bottom margin similar to the page numbers shown in the specification, claims, abstract, and drawings. Of particular note is the fact that the electronic filing system data document is marked "USPTO Use Only" and cannot have had page numbers inserted by Applicant since Applicant did not submit this document. Such is clear evidence that this numbering insertion was done by the Office.

Since the documents in the Image File Wrapper of the submitted application papers contain page numbers and markings, and since Applicant's electronically submitted XML and TIF documents do not have such markings, the page numbers and markings in the left margin were indeed inserted by the Patent Office. Applicant believes that the submission of replacement drawings pursuant to the Draftsperson's objection was, therefore, a courtesy extended to the draftsperson and cannot be counted against the Applicant as causing substantial interference with the patent issue process. In fact, it likely avoided further delays.

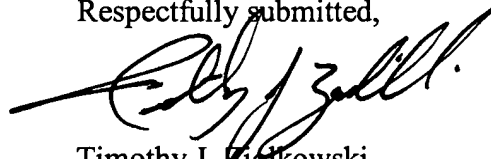
Therefore, Applicant is entitled to its full patent term adjustment for the above-captioned patent. Applicant's courtesy submission of replacement drawings pursuant to the Draftsperson's request to correct the Office's mistake cannot be a substantial interference with the patent issue process requiring any reduction of patent term adjustment since the page numbers and other markings in the drawings were indeed inserted by the Office. The above-captioned patent is not subject to a terminal disclaimer

and there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in §1.704.

Applicant hereby authorizes charging of deposit account no. 07-0845 for the fee of \$200 as set forth in 37 C.F.R. §1.18(e). However, due to the nature of the Office's mistake, Applicant believes no fee should be assessed against Applicant.

Applicant hereby requests that any questions regarding this matter be directed to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy J. Ziolkowski', written over a horizontal line.

Timothy J. Ziolkowski
Registration No. 38,368
Direct Dial 262-376-5139
tjz@zpspatents.com

Dated: November 17, 2004
Attorney Docket No.: GEMS8081.060

P.O. ADDRESS:

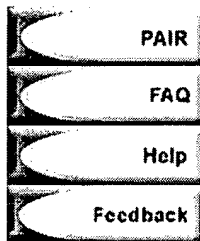
Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170



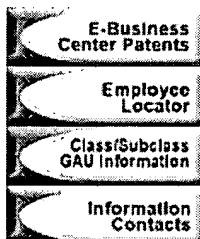
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Patent Term Adjustment (PTA) for application number: 09/682,699

			Days
Filing or 371(c) Date:	10-05-2001	USPTO Delay (PTO):	70
Issue Date of Patent:	09-21-2004	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	84
Post-Issue Petitions (days):	+0	Total PTA:	0
USPTO Adjustment (days):	+0	Explanation of Calculations	

Select Search Option

Assignments

Continuity Data

Display References

File History

Image File Wrapper

Maintenance Fees - Retrieve fees to pay

Search

Maintenance Fees Available: Mon-Fri 5:30 AM to Midnight, Sat-Sun-Hol. 7:30 AM to 8:00 PM E.T.

Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
09-21-2004	Patent Issue Date Used in PTA Calculation		
08-19-2004	Receipt into Pubs		
08-18-2004	Application Is Considered Ready for Issue		
06-30-2004	Workflow - Drawings Finished		84
06-30-2004	Mailroom Date of Issue Fee Payment		
06-30-2004	Miscellaneous Incoming Letter		
07-30-2004	Receipt into Pubs		
06-30-2004	Issue Fee Payment Recorded		
06-18-2004	Workflow - File Sent to Contractor		
06-04-2004	Mail Notice of Allowance		
06-03-2004	Issue Revision Completed		
06-03-2004	Notice of Allowance Data Verification Completed		
06-01-2004	Notice of Allowability		
05-18-2004	Date Forwarded to Examiner		
05-13-2004	Amendment after Final Rejection		
05-13-2004	Workflow incoming amendment IFW		
03-19-2004	Mail Final Rejection (PTOL - 326)		
03-08-2004	Final Rejection		
01-13-2004	Reference capture on IDS		
01-13-2004	IFW Amended case processing Complete		
01-13-2004	Date Forwarded to Examiner		

12-15-2003	Response after Non-Final Action		
12-15-2003	Oath or Declaration Filed (Including Supplemental)		
11-06-2003	Mail Non-Final Rejection		
11-03-2003	Non-Final Rejection		
08-28-2003	Date Forwarded to Examiner		
08-20-2003	Response after Non-Final Action		
06-30-2003	Mail Non-Final Rejection		
06-27-2003	Non-Final Rejection		
04-23-2003	Date Forwarded to Examiner		
04-18-2003	Response after Non-Final Action		
04-18-2003	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		
04-07-2003	Case Docketed to Examiner in GAU		
02-13-2003	Mail Non-Final Rejection	70	
02-10-2003	Non-Final Rejection	↑	
08-01-2002	Information Disclosure Statement (IDS) Filed	↑	
12-18-2001	Information Disclosure Statement (IDS) Filed	↑	
11-09-2001	Case Docketed to Examiner in GAU	↑	
10-27-2001	Application Dispatched from OIPE	↑	
10-25-2001	Correspondence Address Change	↑	
10-11-2001	IFW Scan & PACR Auto Security Review	↑	
10-05-2001	Electronic Filing of Original Application Papers	↑	
10-05-2001	Initial Exam Team nn	↑	

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